15

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

EXCISE APPEAL BRANCH

Appeal No. E/946 /2011 - EX[DB] WITH E/S/1154/2011-EX Date **20/12/2011**
E/CO/217/11, E/COD/419/2011-EX

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S IND SYNERGY LTD.,

VILLAGE-KOTMAR, MOHAPALI, RAIGARH (C.G.)

M/S IND SYNERGY LTD., Appellant

Vs

C.E. RAIPUR **STAY ORDER NO. 1492/2011-EX** Respondent

I am directed to transmit herewith a certified copy of **Final order No.1043/ 2011 EX[DB]** dated 08-12-11

passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING,
DHAMTARI ROAD, TIKRAPARA,
RAIPUR 492001.

2. Adv. / Consult
MR.RAMESH NAIR
LAKSHMI VIHAR, AG- 192, SCHEME NO. 54, VIJAYNAGAR, INDORE(MP)

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise, I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

DATE OF HEARING : 01/12/2011.
DATE OF DECISION : 01/12/2011.

Excise CO Application No. 217 of 2011 with COD Application No. 419 of 2011 and Stay Application No. 1154 of 2011 in Appeal No. 946 of 2011

M/s IND Synergy Ltd. — Appellants

Versus

CCE, Raipur — Respondent

[Arising out of the Order-in-Original No. Commissioner/RPR/13/ 2010 dated 18/03/2010 passed by The Commissioner, Central Excise & Customs, Chattisgarh.]

For Approval and signature :
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	No
3.	Whether their Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Department Authorities?	:	Yes

Appearance

Shri Ramesh Nair, Advocate – for the Appellants.

Shri Sunil Kumar, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Rakesh Kumar, Member (Technical)

STAY order No 1492/2011-EX

FINAL Order No. 1043/2011-EX Dated : ____________

Per. Archana Wadhwa :-

Demand of Rs. 76,51,967/- stands confirmed against the applicant/appellant alongwith imposition of penalty of identical amount for the period December 2008 to August 2009 on the ground that they have utilised common modvatable inputs in the manufacture of exempted as well as dutiable final product. Such demands stand confirmed as 10% of value of the final exempted products i.e. electricity.

2. Learned advocate submits that they have reversed the corresponding credit availed on the inputs used in the manufacture of the exempted final product. However, he submits that the said reversal was subsequent to the passing of the present impugned order.

3. Learned DR submits that in that case, the matter should be remanded for verification of the quantum of reversal involved in the use of the inputs in the manufacture of the final exempted product.

4. We find that as per the amended law, an option is available to the assessee to either reverse the appropriate credit or to pay 10% value of the exempted goods.

5. However, in as much as the reversal in the present case stand made after passing of the impugned order, we set aside the same and remand the matter to Commissioner for verification

of the above factual aspect and to pass fresh orders accordingly. The application of CO with COD also stand disposed of.

(Dictated and pronounced in open court.)

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

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